

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 364

Introduced by Senator Figueroa

February 19, 2003

An act to amend Sections 144, 473.3, 2099.5, 2153.5, 2531, 3010.1, and 3014.6 of the Business and Professions Code, *and to amend Section 1095 of the Unemployment Insurance Code*, relating to professions and vocations, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 364, as amended, Figueroa. Licensing boards.

(1) Existing law requires specified boards, commissions, and bureaus in the Department of Consumer Affairs to obtain fingerprint cards from applicants applying for licensure so that they may obtain and receive, at their discretion, criminal history information on the applicant from the Department of Justice and the United States Federal Bureau of Investigation.

This bill would add the Contractors' State License Board to this list.

(2) *Existing law establishes the Joint Sunset Review Committee and requires the committee to hold public hearings and evaluate whether a board or regulatory program has demonstrated a need for its continued existence.*

This bill would, commencing in 2003 and every 4 years thereafter, require the committee to hold a hearing and receive testimony from the Director of the Department of Consumer Affairs and the Bureau of Automotive Repair concerning the continued public need of continuing the regulatory program of the bureau.

(3) Existing law, the Osteopathic Act, establishes the Osteopathic Medical Board of California. Under existing law, the board is authorized to issue an originating or reciprocal osteopathic physician and surgeon's certificate to an applicant who satisfies specified criteria, including successfully completing an oral, clinical, and practical examination administered by the board.

This bill would delete the requirement to complete an oral, clinical, and practical examination as a prerequisite for these types of licensure.

(4) Existing law, the Speech-Language Pathologists and Audiologists Licensure Act, provides for the licensure of speech language pathologists by the Speech-Language Pathology and Audiology Board. Under existing law, the board becomes inoperative on July 1, 2005.

This bill would extend this board to July 1, 2006.

(5) Existing law authorizes the Director of the Employment Development Department to permit the use of information in his or her possession for specified purposes.

This bill would additionally authorize the director to release information to the Division of Investigations in the Department of Consumer Affairs to verify the employment history of an individual for investigative purposes concerning a crime or unlawful act.

~~(2)~~

(6) Existing law provides for the licensing and regulation of the practice of optometry by the State Board of Optometry and authorizes the board to employ an executive officer. The board and the executive officer will be terminated on July 1, 2005.

This bill would extend the termination date of the board and the executive officer to January 1, 2007.

(7) This bill would declare that it is to *take* effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 144 of the Business and Professions
- 2 Code is amended to read:
- 3 144. (a) Notwithstanding any other provision of law, an
- 4 agency designated in subdivision (b) shall require an applicant to
- 5 furnish to the agency a full set of fingerprints for purposes of



1 conducting criminal history record checks. Any agency
2 designated in subdivision (b) may obtain and receive, at its
3 discretion, criminal history information from the Department of
4 Justice and the United States Federal Bureau of Investigation.

5 (b) Subdivision (a) applies to the following boards or
6 committees:

- 7 (1) California Board of Accountancy.
- 8 (2) State Athletic Commission.
- 9 (3) Board of Behavioral Sciences.
- 10 (4) Court Reporters Board of California.
- 11 (5) State Board of Guide Dogs for the Blind.
- 12 (6) California State Board of Pharmacy.
- 13 (7) Board of Registered Nursing.
- 14 (8) Veterinary Medical Board.
- 15 (9) Registered Veterinary Technician Committee.
- 16 (10) Board of Vocational Nursing and Psychiatric Technicians.
- 17 (11) Respiratory Care Board of California.
- 18 (12) Hearing Aid Dispensers Advisory Commission.
- 19 (13) Physical Therapy Board of California.
- 20 (14) Physician Assistant Committee of the Medical Board of
21 California.
- 22 (15) Speech-Language Pathology and Audiology Board.
- 23 (16) Medical Board of California.
- 24 (17) State Board of Optometry.
- 25 (18) Acupuncture Board.
- 26 (19) Cemetery and Funeral Bureau.
- 27 (20) Bureau of Security and Investigative Services.
- 28 (21) Division of Investigation.
- 29 (22) Board of Psychology.
- 30 (23) The California Board of Occupational Therapy.
- 31 (24) The Contractors' State License Board.

32 SEC. 2. *Section 473.3 of the Business and Professions Code*
33 *is amended to read:*

34 473.3. (a) Prior to the termination, continuation, or
35 reestablishment of any board or any of the board's functions, the
36 Joint Legislative Sunset Review Committee shall, during the
37 interim recess preceding the date upon which a board becomes
38 inoperative, hold public hearings to receive testimony from the
39 Director of Consumer Affairs, the board involved, and the public
40 and regulated industry. In that hearing, each board shall have the

1 burden of demonstrating a compelling public need for the
2 continued existence of the board or regulatory program, and that
3 its licensing function is the least restrictive regulation consistent
4 with the public health, safety, and welfare.

5 (b) In addition to subdivision (a), in 2002 and every four years
6 thereafter, the committee, in cooperation with the California
7 Postsecondary Education Commission, shall hold a public hearing
8 to receive testimony from the Director of Consumer Affairs, the
9 Bureau for Private Postsecondary and Vocational Education,
10 private postsecondary educational institutions regulated by the
11 bureau, and students of those institutions. In those hearings, the
12 bureau shall have the burden of demonstrating a compelling public
13 need for the continued existence of the bureau and its regulatory
14 program, and that its function is the least restrictive regulation
15 consistent with the public health, safety, and welfare.

16 (c) The committee, in cooperation with the California
17 Postsecondary Education Commission, shall evaluate and review
18 the effectiveness and efficiency of the Bureau for Private
19 Postsecondary and Vocational Education, based on factors and
20 minimum standards of performance that are specified in Section
21 473.4. The committee shall report its findings and
22 recommendations as specified in Section 473.5. The bureau shall
23 prepare an analysis and submit a report to the committee as
24 specified in Section 473.2.

25 (d) *In addition to subdivision (a), in 2003 and every four years*
26 *thereafter, the committee shall hold a public hearing to receive*
27 *testimony from the Director of Consumer Affairs and the Bureau*
28 *of Automotive Repair. In those hearings, the bureau shall have the*
29 *burden of demonstrating a compelling public need for the*
30 *continued existence of the bureau and its regulatory program, and*
31 *that its function is the least restrictive regulation consistent with*
32 *the public health, safety, and welfare.*

33 (e) *The committee shall evaluate and review the effectiveness*
34 *and efficiency of the Bureau of Automotive Repair based on factors*
35 *and minimum standards of performance that are specified in*
36 *Section 473.4. The committee shall report its findings and*
37 *recommendations as specified in Section 473.5. The bureau shall*
38 *prepare an analysis and submit a report to the committee as*
39 *specified in Section 473.2.*



1 *SEC. 3. Section 2099.5 of the Business and Professions Code*
2 *is amended to read:*

3 2099.5. Notwithstanding any other provision of law, an
4 originating license for an osteopathic physician's and surgeon's
5 certificate issued by the Osteopathic Medical Board of California
6 shall require ~~the following:~~

7 ~~(a) A~~ a written examination, that is either prepared or selected
8 by the Osteopathic Medical Board of California. The written
9 examination shall include osteopathic principles and practices and
10 all applicable provisions of Article 4 (commencing with Section
11 2080). An applicant shall successfully complete the written
12 examination, as determined by the board.

13 ~~(b) An oral, clinical, and practical examination administered~~
14 ~~by the board which the applicant shall successfully complete, as~~
15 ~~determined by the board.~~

16 *SEC. 4. Section 2153.5 of the Business and Professions Code*
17 *is amended to read:*

18 2153.5. Notwithstanding any other provisions of law, the
19 Osteopathic Medical Board of California shall issue an osteopathic
20 physician's and surgeon's certificate on reciprocity to an applicant
21 providing he or she meets the following requirements:

22 (a) The applicant holds an unlimited license to engage in the
23 practice of osteopathic medicine in another state whose written
24 licensing examination is recognized and approved by the board to
25 be equivalent in content to that administered in California. For the
26 purposes of this section, the board may recognize and approve as
27 equivalent, along with other examinations, an examination
28 prepared by the Federation of State Medical Boards if an applicant
29 had been licensed in another state as a result of the successful
30 completion, prior to December 31, 1993, of that examination. In
31 lieu of a board recognized and approved state written license
32 examination, the board may require the applicant to successfully
33 complete a special examination in general medicine and
34 osteopathic principles prepared by the National Board of
35 Osteopathic Medical Examiners, or the Osteopathic Medical
36 Board of California. The board may also utilize a special purpose
37 examination prepared by the Federation of State Medical Boards.

38 (b) The board determines that no disciplinary action has been
39 taken against the applicant by any medical licensing authority and
40 that the applicant has not been the subject of adverse judgments or

1 settlements resulting from the practice of medicine ~~which~~ *that* the
2 board determines constitutes evidence of a pattern of negligence
3 or incompetence.

4 ~~(e) The applicant successfully completes an oral, clinical, and~~
5 ~~practical examination, as determined by the board.~~

6 *SEC. 5. Section 2531 of the Business and Professions Code is*
7 *amended to read:*

8 2531. There is in the Department of Consumer Affairs a
9 Speech-Language Pathology and Audiology Board in which the
10 enforcement and administration of this chapter is vested. The
11 Speech-Language Pathology and Audiology Board shall consist of
12 nine members, three of whom shall be public members.

13 This section shall become inoperative on July 1, ~~2005~~ 2006,
14 and, as of January 1, ~~2006~~ 2007, is repealed, unless a later enacted
15 statute, that becomes effective on or before January 1, ~~2006~~ 2007,
16 deletes or extends the inoperative and repeal dates.

17 *SEC. 6. Section 3010.1 of the Business and Professions Code*
18 *is amended to read:*

19 3010.1. (a) There is in the Department of Consumer Affairs
20 a State Board of Optometry in which the enforcement of this
21 chapter is vested. The board consists of 11 members, five of whom
22 shall be public members.

23 Six members of the board shall constitute a quorum.

24 (b) The board shall, with respect to conducting investigations,
25 inquiries, and disciplinary actions and proceedings, have the
26 authority previously vested in the board as created pursuant to
27 Section 3010. The board may enforce any disciplinary actions
28 undertaken by that board.

29 (c) This section shall remain in effect only until July 1, 2006,
30 and, as of January 1, 2007, is repealed, unless a later enacted
31 statute, that is enacted before January 1, 2007, deletes or extends
32 that date.

33 ~~SEC. 3.~~

34 *SEC. 7. Section 3014.6 of the Business and Professions Code*
35 *is amended to read:*

36 3014.6. (a) The board may appoint a person exempt from
37 civil service who shall be designated as an executive officer and
38 who shall exercise the powers and perform the duties delegated by
39 the board and vested in him or her by this chapter.

(b) This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SEC. 4. Sections 2 and 3 of this bill shall become operative on January 1, 2004.~~

~~SEC. 5.~~

SEC. 8. *Section 1095 of the Unemployment Insurance Code is amended to read:*

1095. The director shall permit the use of any information in his or her possession to the extent necessary for any of the following purposes and may require reimbursement for all direct costs incurred in providing any and all information specified in this section, except information specified in subdivisions (a) to (e), inclusive:

(a) To enable the director or his or her representative to carry out his or her responsibilities under this code.

(b) To properly present a claim for benefits.

(c) To acquaint a worker or his or her authorized agent with his or her existing or prospective right to benefits.

(d) To furnish an employer or his or her authorized agent with information to enable him or her to fully discharge his or her obligations or safeguard his or her rights under this division or Division 3 (commencing with Section 9000).

(e) To enable an employer to receive a reduction in contribution rate.

(f) To enable federal, state, or local government departments or agencies, subject to federal law, to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services provided pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, or Part A of Title IV of the Social Security Act, where the verification or determination is directly connected with, and limited to, the administration of public social services.

(g) To enable county administrators of general relief or assistance, or their representatives, to determine entitlement to locally provided general relief or assistance, where the determination is directly connected with, and limited to, the administration of general relief or assistance.

1 (h) To enable state or local governmental departments or
2 agencies to seek criminal, civil, or administrative remedies in
3 connection with the unlawful application for, or receipt of, relief
4 provided under Division 9 (commencing with Section 10000) of
5 the Welfare and Institutions Code or to enable the collection of
6 expenditures for medical assistance services pursuant to Part 5
7 (commencing with Section 17000) of Division 9 of the Welfare
8 and Institutions Code.

9 (i) To provide any law enforcement agency with the name,
10 address, telephone number, birth date, social security number,
11 physical description, and names and addresses of present and past
12 employers, of any victim, suspect, missing person, potential
13 witness, or person for whom a felony arrest warrant has been
14 issued, when a request for this information is made by any
15 investigator or peace officer as defined by Sections 830.1 and
16 830.2 of the Penal Code, or by any federal law enforcement officer
17 to whom the Attorney General has delegated authority to enforce
18 federal search warrants, as defined under Sections 60.2 and 60.3
19 of Title 28 of the Code of Federal Regulations, as amended, and
20 when the requesting officer has been designated by the head of the
21 law enforcement agency and requests this information in the
22 course of and as a part of an investigation into the commission of
23 a crime when there is a reasonable suspicion that the crime is a
24 felony and that the information would lead to relevant evidence.
25 The information provided pursuant to this subdivision shall be
26 provided to the extent permitted by federal law and regulations,
27 and to the extent the information is available and accessible within
28 the constraints and configurations of existing department records.
29 Any person who receives any information under this subdivision
30 shall make a written report of the information to the law
31 enforcement agency that employs him or her, for filing under the
32 normal procedures of that agency.

33 (1) This subdivision shall not be construed to authorize the
34 release to any law enforcement agency of a general list identifying
35 individuals applying for or receiving benefits.

36 (2) The department shall maintain records pursuant to this
37 subdivision only for periods required under regulations or statutes
38 enacted for the administration of its programs.

1 (3) This subdivision shall not be construed as limiting the
2 information provided to law enforcement agencies to that
3 pertaining only to applicants for, or recipients of, benefits.

4 (4) The department shall notify all applicants for benefits that
5 release of confidential information from their records will not be
6 protected should there be a felony arrest warrant issued against the
7 applicant or in the event of an investigation by a law enforcement
8 agency into the commission of a felony.

9 (j) To provide public employee retirement systems in
10 California with information relating to the earnings of any person
11 who has applied for or is receiving a disability income, disability
12 allowance, or disability retirement allowance, from a public
13 employee retirement system. The earnings information shall be
14 released only upon written request from the governing board
15 specifying that the person has applied for or is receiving a
16 disability allowance or disability retirement allowance from its
17 retirement system. The request may be made by the chief executive
18 officer of the system or by an employee of the system so authorized
19 and identified by name and title by the chief executive officer in
20 writing.

21 (k) To enable the Division of Labor Standards Enforcement in
22 the Department of Industrial Relations to seek criminal, civil, or
23 administrative remedies in connection with the failure to pay, or
24 the unlawful payment of, wages pursuant to Chapter 1
25 (commencing with Section 200) of Part 1 of Division 2 of, and
26 Chapter 1 (commencing with Section 1720) of Part 7 of Division
27 2 of, the Labor Code.

28 (l) To enable federal, state, or local governmental departments
29 or agencies to administer child support enforcement programs
30 under Title IV of the Social Security Act (42 U.S.C. Sec. 651 et
31 seq.).

32 (m) To provide federal, state, or local governmental
33 departments or agencies with wage and claim information in its
34 possession that will assist those departments and agencies in the
35 administration of the victims of crime program or in the location
36 of victims of crime who, by state mandate or court order, are
37 entitled to restitution that has been or can be recovered.

38 (n) To provide federal, state, or local governmental
39 departments or agencies with information concerning any
40 individuals who are or have been:

1 (1) Directed by state mandate or court order to pay restitution,
2 fines, penalties, assessments, or fees as a result of a violation of
3 law.

4 (2) Delinquent or in default on guaranteed student loans or who
5 owe repayment of funds received through other financial
6 assistance programs administered by those agencies. The
7 information released by the director for the purposes of this
8 paragraph shall not include unemployment insurance benefit
9 information.

10 (o) To provide an authorized governmental agency with any or
11 all relevant information that relates to any specific workers'
12 compensation insurance fraud investigation. The information
13 shall be provided to the extent permitted by federal law and
14 regulations. For the purposes of this subdivision, "authorized
15 governmental agency" means the district attorney of any county,
16 the office of the Attorney General, the Department of Industrial
17 Relations, and the Department of Insurance. An authorized
18 governmental agency may disclose this information to the State
19 Bar, the Medical Board of California, or any other licensing board
20 or department whose licensee is the subject of a workers'
21 compensation insurance fraud investigation. This subdivision
22 shall not prevent any authorized governmental agency from
23 reporting to any board or department the suspected misconduct of
24 any licensee of that body.

25 (p) To enable the Director of the Bureau for Private
26 Postsecondary and Vocational Education, or his or her
27 representatives, to access unemployment insurance quarterly
28 wage data on a case-by-case basis to verify information on school
29 administrators, school staff, and students provided by those
30 schools who are being investigated for possible violations of
31 Chapter 7 (commencing with Section 94700) of Part 59 of the
32 Education Code.

33 (q) To provide employment tax information to the tax officials
34 of Mexico, if a reciprocal agreement exists. For purposes of this
35 subdivision, "reciprocal agreement" means a formal agreement to
36 exchange information between national taxing officials of Mexico
37 and taxing authorities of the State Board of Equalization, the
38 Franchise Tax Board, and the Employment Development
39 Department. Furthermore, the reciprocal agreement shall be
40 limited to the exchange of information that is essential for tax



1 administration purposes only. Taxing authorities of the State of
2 California shall be granted tax information only on California
3 residents. Taxing authorities of Mexico shall be granted tax
4 information only on Mexican nationals.

5 (r) To enable city and county planning agencies to develop
6 economic forecasts for planning purposes. The information shall
7 be limited to businesses within the jurisdiction of the city or county
8 whose planning agency is requesting the information, and shall not
9 include information regarding individual employees.

10 (s) To provide the State Department of Developmental
11 Services with wage and employer information that will assist in the
12 collection of moneys owed by the recipient, parent, or any other
13 legally liable individual for services and supports provided
14 pursuant to Chapter 9 (commencing with Section 4775) of
15 Division 4.5 of, and Chapter 2 (commencing with Section 7200)
16 and Chapter 3 (commencing with Section 7500) of Division 7 of,
17 the Welfare and Institutions Code.

18 (t) Nothing in this section shall be construed to authorize or
19 permit the use of information obtained in the administration of this
20 code by any private collection agency.

21 (u) The disclosure of the name and address of an individual or
22 business entity that was issued an assessment that included
23 penalties under Section 1128 or 1128.1 shall not be in violation of
24 Section 1094 if the assessment is final. The disclosure may also
25 include any of the following:

26 (1) The total amount of the assessment.

27 (2) The amount of the penalty imposed under Section 1128 or
28 1128.1 that is included in the assessment.

29 (3) The facts that resulted in the charging of the penalty under
30 Section 1128 or 1128.1.

31 (v) To enable the Contractors' State License Board to verify the
32 employment history of an individual applying for licensure
33 pursuant to Section 7068 of the Business and Professions Code.

34 (w) *To provide any peace officer with the Division of*
35 *Investigation in the Department of Consumer Affairs information*
36 *pursuant to subdivision (i) when the requesting peace officer has*
37 *been designated by the Chief of the Division of Investigations and*
38 *requests this information in the course of and in part of an*
39 *investigation into the commission of a crime or other unlawful act*
40 *when there is reasonable suspicion to believe that the crime or act*

1 *may be connected to the information requested and would lead to*
2 *relevant information regarding the crime or unlawful act.*

3 SEC. 9. This act is an urgency statute necessary for the
4 immediate preservation of the public peace, health, or safety
5 within the meaning of Article IV of the Constitution and shall go
6 into immediate effect. The facts constituting the necessity are:

7 In order to protect the public health and safety, it is necessary
8 ~~that the Contractors' State License Board be able to obtain as soon~~
9 ~~as possible fingerprints from applicants and licensees in order to~~
10 ~~run criminal records checks.~~ *that these changes affecting various*
11 *licensing boards take effect immediately.*

